

UNITED STATES DISTRICT COURT

for the

District of Montana

United States of America

v.

Vernelle Lynn Badbear

Date of Original Judgment: 06/21/2019

Date of Previous Amended Judgment: _____

(Use Date of Last Amended Judgment if Any)

Case No: CR-17-127-BLG-SPW

USM No: 17036-046

Defendant's Attorney

ORDER REGARDING MOTION FOR SENTENCE REDUCTION
PURSUANT TO 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months is reduced to _____.
(See Page 2 for additional parts. Complete Parts I and II of Page 2 when motion is granted)

Defendant seeks a sentence reduction under the retroactive application to the criminal history rules in Parts A and B, subpart 1 of Amendment 821 to the United States Sentencing Guidelines. (See Doc. 115.) Defendant is clearly ineligible.

Part A limits the overall criminal history impact of "status points" for offenders who committed the instant offense while under a criminal justice sentence. Part B, subpart 1 provides a two-level decrease for offenders who did not receive any criminal history points under Chapter Four and whose instant offense did not involve specific aggravating factors. See U.S.S.G. Ret. App. A & B, Sub. 1 Amendment 821 "Reasons for Amendment" (Nov. 1, 2023).

Here, as to Part A, Defendant did not receive any Chapter Four "status points." (PSR ¶ 28.) As to Part B, Defendant's total criminal history score was zero, (PSR ¶ 35–36), but her offense involved an aggravating factor under §4C1.1(a)(4), the offense resulted in death, (PSR ¶ 10). Because Defendant is clearly ineligible for a sentence reduction under the retroactive application of Amendment 821, her motion is denied.

Except as otherwise provided, all provisions of the judgment dated _____ shall remain in effect.

IT IS SO ORDERED.

Order Date: 11-28-2023


Judge's signature

Effective Date: _____
(if different from order date)

Printed name and title